

## CORRECTION OF ERRORS IN PATENT

**§ 1.322 Certificate of correction of Office mistake.**

(a)(1) The Director may issue a certificate of correction pursuant to 35 U.S.C. 254 to correct a mistake in a patent, incurred through the fault of the Office, which mistake is clearly disclosed in the records of the Office:

- (i) At the request of the patentee or the patentee's assignee;
- (ii) Acting *sua sponte* for mistakes that the Office discovers; or
- (iii) Acting on information about a mistake supplied by a third party.

(2)(i) There is no obligation on the Office to act on or respond to a submission of information or request to issue a certificate of correction by a third party under paragraph (a)(1)(iii) of this section.

(ii) Papers submitted by a third party under this section will not be made of record in the file that they relate to nor be retained by the Office.

(3) If the request relates to a patent involved in an interference or trial before the Patent Trial and Appeal Board, the request must comply with the requirements of this section and be accompanied by a motion under § 41.121(a)(2), § 41.121(a)(3), or § 42.20 of this title.

(4) The Office will not issue a certificate of correction under this section without first notifying the patentee (including any assignee of record) at the correspondence address of record as specified in § 1.33(a) and affording the patentee or an assignee an opportunity to be heard.

(b) If the nature of the mistake on the part of the Office is such that a certificate of correction is deemed inappropriate in form, the Director may issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee.

(35 U.S.C. 254)

[24 FR 10332, Dec. 22, 1959, as amended at 49 FR 48454, Dec. 12, 1984; 65 FR 54677, Sept. 8, 2000; 69 FR 50001, Aug. 12, 2004; 77 FR 46626, Aug. 6, 2012]

**§ 1.323 Certificate of correction of applicant's mistake.**

The Office may issue a certificate of correction under the conditions specified in 35 U.S.C. 255 at the request of the patentee or the patentee's assignee, upon payment of the fee set forth in § 1.20(a). If the request relates to a patent involved in an interference or trial before the Patent Trial and Appeal Board, the request must comply with the requirements of this section and be accompanied by a motion under § 41.121(a)(2), § 41.121(a)(3) or § 42.20 of this title.

[77 FR 46626, Aug. 6, 2012]

**§ 1.324 Correction of inventorship in patent, pursuant to 35 U.S.C. 256.**

(a) Whenever through error a person is named in an issued patent as the inventor, or an inventor is not named in an issued patent, the Director, pursuant to 35 U.S.C. 256, may, on application of all the parties and assignees, or on order of a court before which such matter is called in question, issue a certificate naming only the actual inventor or inventors.

(b) Any request to correct inventorship of a patent pursuant to paragraph (a) of this section must be accompanied by:

(1) A statement from each person who is being added as an inventor and each person who is currently named as an inventor either agreeing to the change of inventorship or stating that he or she has no disagreement in regard to the requested change;

(2) A statement from all assignees of the parties submitting a statement under paragraph (b)(1) of this section agreeing to the change of inventorship in the patent, which statement must comply with the requirements of § 3.73(c) of this chapter; and

(3) The fee set forth in § 1.20(b).

(c) For correction of inventorship in an application, *see* § 1.48.

(d) In an interference under part 41, subpart D, of this title, a request for correction of inventorship in a patent must be in the form of a motion under § 41.121(a)(2) of this title. In a contested case under part 42, subpart D, of this title, a request for correction of inventorship in a patent must be in the

## § 1.325

form of a motion under § 42.22 of this title. The motion under § 41.121(a)(2) or § 42.22 of this title must comply with the requirements of this section.

[77 FR 48822, Aug. 14, 2012]

### § 1.325 Other mistakes not corrected.

Mistakes other than those provided for in §§ 1.322, 1.323, 1.324, and not affording legal grounds for reissue or for reexamination, will not be corrected after the date of the patent.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2714, Jan. 20, 1983]

#### ARBITRATION AWARDS

### §§ 1.331–1.334 [Reserved]

### § 1.335 Filing of notice of arbitration awards.

(a) Written notice of any award by an arbitrator pursuant to 35 U.S.C. 294 must be filed in the Patent and Trademark Office by the patentee, or the patentee's assignee or licensee. If the award involves more than one patent a separate notice must be filed for placement in the file of each patent. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the award.

(b) If an award by an arbitrator pursuant to 35 U.S.C. 294 is modified by a court, the party requesting the modification must file in the Patent and Trademark Office, a notice of the modification for placement in the file of each patent to which the modification applies. The notice must set forth the patent number, the names of the inventor and patent owner, and the names and addresses of the parties to the arbitration. The notice must also include a copy of the court's order modifying the award.

(c) Any award by an arbitrator pursuant to 35 U.S.C. 294 shall be unenforceable until any notices required by paragraph (a) or (b) of this section are filed in the Patent and Trademark Office. If any required notice is not filed by the party designated in paragraph (a) or (b) of this section, any party to the arbi-

## 37 CFR Ch. I (7–1–14 Edition)

tration proceeding may file such a notice.

(35 U.S.C. 6, Pub. L. 97-247)

[48 FR 2714, Jan. 20, 1983]

#### AMENDMENT OF RULES

### § 1.351 Amendments to rules will be published.

All amendments to the regulations in this part will be published in the *Official Gazette* and in the FEDERAL REGISTER.

### § 1.352 [Reserved]

#### MAINTENANCE FEES

### § 1.362 Time for payment of maintenance fees.

(a) Maintenance fees as set forth in §§ 1.20 (e) through (g) are required to be paid in all patents based on applications filed on or after December 12, 1980, except as noted in paragraph (b) of this section, to maintain a patent in force beyond 4, 8 and 12 years after the date of grant.

(b) Maintenance fees are not required for any plant patents or for any design patents. Maintenance fees are not required for a reissue patent if the patent being reissued did not require maintenance fees.

(c) The application filing dates for purposes of payment of maintenance fees are as follows:

(1) For an application not claiming benefit of an earlier application, the actual United States filing date of the application.

(2) For an application claiming benefit of an earlier foreign application under 35 U.S.C. 119, the United States filing date of the application.

(3) For a continuing (continuation, division, continuation-in-part) application claiming the benefit of a prior patent application under 35 U.S.C. 120, the actual United States filing date of the continuing application.

(4) For a reissue application, including a continuing reissue application claiming the benefit of a reissue application under 35 U.S.C. 120, United States filing date of the original non-reissue application on which the patent reissued is based.